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Board of Funeral Services

Conseil des services funéraires

A N N U A L R E P O R T

FOR

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ANNUAL REPORT

FOR

1990

BOARD MEMBERSHIP

The Board of Funeral Services was established by the Funeral Services Act in 1976 to succeed the Board of Administration which had a history dating back to 1914.

The new Funeral Directors and Establishments Act, 1989 requires that the Board shall be composed of six funeral directors and five lay persons all appointed by the Lieutenant Governor in Council.

MEMBERS - 1990

Chairman	James A. Erb	Waterloo
Vice-Chairman	Barbara Beck*	Peterborough
Secretary-Treasurer	Andrew Doyle	Ottawa
Ex-Officio	James L. Sargent	Thunder Bay
	David Lester	Cobourg
	Rodney Ingram	Toronto
	Dr. Stephen Speisman*	Thornhill
	Alex Mansfield*	Mississauga
	Russell Wallace	Brampton
	Lise Malette*	Timmins
	Pearl Davie*	Hamilton

* Denotes Lay Member

BOARD STAFF - 1990

Registrar:	Alison M. Reynolds
Executive Assistant to the Registrar:	Ellen M. Smoor
Administrative Inspector:	Donald R. Perreault
Inspectors:	Sheila M. Nunn Melissa I. Bak
Secretary-Bookeeper:	Regina Bergin
Secretary-Receptionist:	Leila Haroun

LEGAL COUNSEL

Donald Posluns
Richard Steinecke

Porter, Posluns & Harris
Barristers & Solicitors

AUDITOR

John Mayhue

Harris & Wright

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FUNCTIONS OF THE BOARD OF FUNERAL SERVICES

The Funeral Directors and Establishments Act establishes a self-governing body to administer the Act and regulate the practices of funeral directors and funeral service establishments in accordance with the Act and the Regulations in order that the public interest may be served and protected.

The Board is responsible for the review of the operation of this Act and the Regulations and for making recommendations to the Minister of Consumer and Commercial Relations thereon. The Board approves or sets courses of study and examinations for the qualification of applicants for licensure.

Other responsibilities of this Board include establishing, maintaining and developing standards of qualification, practice and professional ethics for funeral directors and funeral service establishments.

The Funeral Directors and Establishments Act establishes five standing committees - Executive, Licencing, Complaints, Discipline and Compensation Committee.

REPORT OF THE CHAIRMAN

It is my pleasure to report to you as Chair of the Board of Funeral Services for the last year. Together I believe we have worked very well as a Board.

Let me begin by first expressing my most sincere appreciation to our staff for their dedication to providing quality service to the public and those in funeral service. These past months have seen an unusually high amount of activity around our office, and the response of the staff has been excellent.

Our long-awaited legislation arrived and with it came relief, questions and work. Our response to the legislation was a well planned public relations campaign aimed at informing the public as to what the new provisions of the legislation are. The response from the media was encouraging as were the number of phone calls from the public coming into our office.

We also took the message of the new legislation to the funeral profession. Workshops were held in 9 cities across Ontario and we estimate about 80% of the active funeral directors attended one of the workshops. Our goal was to educate the profession on the new legislation and help them to come into compliance.

With the new legislation comes many new questions and need for clarification on specific issues. As the Board is aware, we are currently seeking amendments in 13 different areas which will make the new legislation more reflective of the original intent. We look forward to a response from the Ministry and a continued positive working relationship with them.

There are many issues that will need our attention in the year ahead. I personally appreciated your participation during the past term and look forward to the months ahead as we continue our task together.

Respectfully Submitted,

James A. Erb
Chairman

REPORT OF THE REGISTRAR

The 1989-1990 year was one of challenge and adaptation for the Board of Funeral Services and therefore for the Office of the Registrar. Never in the history of the Board has there been a twelve month period in which so many changes occurred.

This year the Board came into compliance with the French Language Services Act. All exams, licences, forms and publications are either bilingual or offered in two languages and the letterhead and signage now reflect our bilingual status. French has become a factor when considering personnel and of the seven staff, two have a degree of proficiency in French and two are completely bilingual. In the matter of complaints and discipline, the Board is in a position to provide translators for those who require the process to be conducted in French.

The new Funeral Directors and Establishments Act came into force on June 1 and the regulations thereunder became effective October 1. The impact of the new legislation was significant. The Board had to understand and interpret the legislation for its own purposes while at the same time was responsible for helping Ontario's 2200 funeral directors to come into compliance with the new law.

In order to explain the legislation to the profession, the Board sponsored fifteen seminars throughout Ontario in September. The seminars were held in Windsor, Owen Sound, Burlington, Toronto, Thunder Bay, Kingston, Ottawa and Timmins and were attended by 900 funeral directors.

Following the seminars, a compendium of the major questions asked at the seminars and the answers thereto was sent to all active funeral directors. As well, sample contracts were sent to each of the 528 funeral establishments in the province.

Happily, the new legislation was enthusiastically received by the majority of funeral directors and any problems with compliance being encountered by the Board are, for the most part, the result of misinterpretation of the legislation by the profession rather than an unwillingness to comply.

The Board sponsored a media briefing in July to introduce a public relations campaign aimed at the Ontario public. The objects were to make the public aware of the Board of Funeral Services and its role and to inform the public of the new protective measures contained in the recently introduced Funeral Directors and Establishments Act, 1989.

The Ontario media carried over 65 articles in print, approximately 15 television items and numerous items on the radio. The only measure of success was the number of responses the campaign elicited in the form of requests to the office for more

information. Hundreds of calls and letters flooded in. Although it has now levelled off, the increased public contact has continued, reflecting the fact that a much larger percentage of the Ontario public is aware of the Boards' existence and function.

With the implementation of the new legislation in June, the Board was expanded to a membership of eleven. While welcomed, the increase in members placed a strain on the physical resources of the Board.

In response, major renovations were made to the Board's office space allowing for the better accommodation of members and greater working efficiency for the staff. Plans were also put in place to expand the Board's computer capacity.

The full-time staff increased to seven this year and consists of the Registrar, her assistant, a supervisory inspector, two inspectors, a secretary bookkeeper and a secretary-receptionist.

The increased staff means greater efficiency, particularly in the area of inspections which have already become more in depth. With an inspection staff of three, it is hoped that every funeral establishment in Ontario will be inspected every two years.

The inspections are unannounced and cover the premises, equipment, facilities and books, records and trust accounts pertaining to prepaid funerals. A thorough system is used so that inspections are conducted in a consistent manner throughout the province. In addition to a thorough inspection of the premises to ensure that requirements under the Funeral Directors and Establishments Act are being fulfilled, there is an inspection of a random sample of the past funeral files, both those arranged at the time of need and those that were prearranged. A sample of prepaid contacts is checked for appropriate details, and valued as to principal and accrued interest. Bank confirmations are obtained from the institutions where the prepaid trust funds are deposited.

While the education of the profession concerning the new legislation has been the major thrust in recent months, the Board has carried out its objects as defined in legislation in other ways.

In response to concerns surrounding contagious disease and more specifically AIDS, the Board issued the following directive to the profession:

A licensee may not refuse any reasonable request for service on the grounds of cause of death unless there would be a contravention of some legislation in doing so, i.e. the Public Health Promotion and Protections Act lists diseases which would require notification of

the Medical Officer of Health and immediate disposition.

In view of the monopoly funeral directors have in the death-care field, they have no choice but to provide embalming if this service is requested.

In its implementation of the Regulations, the Board discovered serious areas of weakness and immediately recommended amendments to the Minister.

The Board of Funeral Services was faced with the resolution of three problems involving a shortage of trust funds in the 1989-90 year. In one case the problems were historical and the Board and a member of the profession stepped in to cover the shortfall. In the second case there was partial restitution through insurance carried by the profession's volunteer association. In the third case the responsible funeral director had assets with which to replace the shortfall. New legislation provides for the establishment of a Compensation Fund which will ensure restitution should there be further occurrences of this kind.

Another reoccurring problem during the early part of the year was the receipt of complaints concerning telephone solicitation. Fortunately, the new legislation included a prohibition in this area and these complaints have all but ceased.

During the early part of the year, the Board assisted the Ontario Native Affairs Directorate and the Grand Council Treaty #3 in developing a survey to establish what Ojibway burial traditions existed in Northwestern Ontario and to determine whether or not these traditions were being respected by funeral directors.

The Board in recent months has been required to assume a much more aggressive role than it has in the past as it works to ensure the smooth transition to the new rules and a more consumer aware profession. Uppermost is the Board's intent to apply the laws firmly and fairly throughout the province. Only in this way can the Board provide the protection necessary to ensure the integrity of the profession and the safety of the public at their most vulnerable time.

Respectfully submitted,

Alison M. Reynolds
Registrar

REPORT OF THE LICENCING COMMITTEE

During this reporting period the Licensing Committee underwent membership changes due to appointment of new Board members and the retirement of others.

The former committee comprised of Frank Eagleson, Chair; Jim Reid and Barbara Beck were responsible for the survey circulated to all apprentices as well as assisting the staff in planning and implementing the Professional Development program held in the spring of 1990 for funeral directors. In addition to these duties the Committee dealt with issues and concerns, one of which was the final exam to be written by the students eg. questions relating to legislation were removed and marks awarded for certain questions were adjusted. As well, the Committee met with funeral directors who had agreed to conduct the practical examinations. In an effort to express appreciation to the examiners, the Licensing Committee hosted a luncheon in September at which time any problems and/or concerns were discussed informally.

Prior to the appointment of a new Committee, Barbara Beck and staff members interviewed students during their study period at Humber College before final exams. This was an opportunity for a Board member to make students aware that the Board was interested in their progress and was available to help them. The students seemed to appreciate the contact with the Board and were able to express themselves freely, particularly about the apprenticeships.

In mid-1990, a new Committee was named: Barbara Beck, Chair; David Lester and Russell Wallace. This committee was responsible for marking the full set of June exams and the December exams. There were successful licencing candidates. Russell Wallace, on behalf of the Board of Funeral Services, presented awards at the graduation exercises to the top students.

The Committee has worked in cooperation with staff to plan the 1991 Professional Development Program to be held in April. The highly successful format from 1990 will be used. Speakers and workshop leaders are confirmed and it promises to be a very educational and informative program.

Committee members have participated in discussions with the Humber College Advisory Committee on curriculum changes. Now that the new legislation is in place the final exam for students will be adjusted to include questions about the new Funeral Directors and Establishments Act and the Regulations. Any changes will be made in consultation with the Registrar and Humber College. As well the Committee is working with the staff of Humber College to design an exam suitable for transfer service operators and another which will be used for funeral directors wishing to resume active practice.

The Committee has prepared a procedure manual which should be of invaluable assistance to Licencing Committees in the future.

As Chair of the Committee, I wish to thank my co-workers, David Lester and Russell Wallace for their enthusiasm, commitment and support. Also, I wish to acknowledge the assistance and support from the Registrar and the Executive Assistant.

I believe that the Licencing Committee has carried out its tasks and has accomplished a great deal during its short term of office. There is unfinished business but a timetable has been established and the work can proceed in an orderly fashion.

Respectfully submitted,

Barbara Beck
Chairman

COMPLAINTS COMMITTEE

The 1990 Complaints Committee was established as follows;

November 1, 1989-May 31, 1990

June 1, 1990-October 31, 1990

Barbara Beck - Chairman
James Erb
Frank Eagleson

Dr. Stephen Speisman - Chairman
David Lester
James Sargent

The Complaints Committee met on a regular basis to render decisions regarding written complaints which had been received by the Board regarding the conduct or actions of a funeral director.

Twenty-four written complaints were referred to the Complaints Committee for resolution during the past year. The Committee reviewed the written material very carefully and each complaint was given serious consideration.

Six of the complaints were deemed to be of a serious nature and were referred to the Discipline Committee.

Of the remaining eighteen complaints, seven were, in the Committee's opinion, not justified, and one did not fall within the jurisdiction of the Board of Funeral Services. Two of these eight complainants have appealed the Committee's decision to the Commercial Registration Appeal Tribunal and the hearings are pending.

In three cases there were decisions recommending that specific remedial action be taken to resolve the complaints satisfactorily.

In two cases the funeral directors were admonished and as well were directed to send a letter of apology to the complainants.

In two cases the funeral director was admonished, directed to send a letter of apology to the complainant and directed to refund a sum of money to the complainant.

One case resulted in the funeral director's being referred to the Executive Committee for a competency hearing.

The Board attempts to make the public aware of the complaints process that is set out by the Funeral Directors and Establishments Act. This information is given out to the many members of the public who call the Board office throughout the year and through the Board's general information brochure.

The Board's brochure is available, at no charge, directly from the Board and from licenced funeral homes throughout the province. As well, many public service agencies, self-help groups and schools stock the brochure.

As Chairman, I wish to thank the other Committee members and the staff who have worked diligently in the cause of consumer protection.

Respectfully submitted,

Dr. Stephen Speisman
Chairman

REPORT OF THE DISCIPLINE COMMITTEE

The 1990 Discipline Committee was established as follows:

November 1, 1989-May 31, 1990

June 1, 1990-October 31, 1990

Donald Smith - Chairman
James Reid
Alex Mansfield

Rodney Ingram-Chairman
Pearl Davie
Alex Mansfield
Russell Wallace

This Committee hears and determines allegations of professional misconduct or incompetence against any funeral director as referred to it by the Executive Committee or the Complaints Committee. The Discipline Committee must determine whether, upon the evidence and the fact, the funeral director is guilty of any professional misconduct or incompetence.

The Discipline Committee determines the penalty to be imposed in cases in which it finds the funeral director guilty of professional misconduct or incompetence. These penalties range from suspension of licences to revocation of licences, publishing of convictions, fines, and in the case of incompetence, can include a requirement for treatment and/or additional training.

Eight cases were heard by the Discipline Committee during the year. Results were as follows:

1. In three cases, a funeral director was charged under Section 16(b) of Regulation 399 under the Funeral Services Act with failure to maintain the standard of practice of a funeral director.

In each case, the funeral director was found guilty and given a recorded reprimand.

2. In two cases, a funeral director was charged under Section 16(e) of Regulation 399 under the Funeral Services Act with excessive charging.

Decisions in both these cases are pending.

3. In one case a funeral director was charged with the misappropriation of trust funds.

The funeral director was found guilty and his licence was revoked.

4. In one case, two funeral directors were charged under Sections 16(b),(d),(f) and (1) of Regulation 399 under the Funeral Services Act with failure to maintain the standard of practice of a funeral director, permitting an unlicenced person to engage in the practice of funeral directing, issuing a false document and unprofessional conduct.

One funeral director was found guilty and was fined and given a recorded reprimand.

The other funeral director was found guilty and charged costs and given a three month licence suspension.

5. In one case two funeral directors were charged with the unauthorized removal and embalming of a body.

The decision in this case is pending.

Respectfully submitted,

Rodney Ingram
Chairman

COMPENSATION FUND COMMITTEE

The Compensation Fund Committee is comprised as follows:

Pearl Davie - Chairman
Jim Erb - Ex officio
Rodney Ingram
Lise Malette

The Compensation Fund Committee held no formal meetings during the period from its inception in June 1990 until the year end of November 30, 1990 as there were no funds on hand. Communication within the Committee took place by telephone and Facsimile and meetings were scheduled for December and January when there would be funds accruing.

Respectfully Submitted,

Pearl Davie
Chairman

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